

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

FREDERICK WAYNE SMITH,

Plaintiff,

v.

KATHLEEN ALLISON, et al.,

Defendants.

Case No. 1:22-cv-01580-JLT-SAB (PC)

FINDINGS AND RECOMMENDATIONS  
RECOMMENDING DISMISSAL OF  
CERTAIN CLAIMS AND DEFENDANTS

(ECF No. 10)

Plaintiff Frederick Wayne Smith is proceeding pro se in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On February 16, 2023, the Court screened Plaintiff's complaint, and found that he stated a cognizable claim against Defendant Rodriguez for retaliation, deliberate indifference to safety, and denial of access to the courts. (ECF No. 10.) However, Plaintiff failed to state any other cognizable claims. Plaintiff was granted the opportunity to file an amended complaint or notify the Court of his intent to proceed on the claims found to be cognizable. (Id.) On March 6, 2023, Plaintiff filed a notice of intent to proceed on the claims found to be cognizable. (ECF No. 13.)

Accordingly, it is HEREBY RECOMMENDED that:

1. This action proceed against Defendant Rodriguez for retaliation, deliberate indifference to safety, and denial of access to the courts; and

///

2. All other claims and Defendants be dismissed from the action for failure to state a cognizable claim for relief.

These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14) days** after being served with these Findings and Recommendations, Plaintiff may file written objections with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: **March 7, 2023**



UNITED STATES MAGISTRATE JUDGE